

June 28, 2021

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 21-78

This All County Letter (ACL) provides County Welfare Departments with policy guidance regarding the provision of reasonable accommodations for CalFresh applicants/recipients and highlights best practices to implement these policies effectively and ensure equal and meaningful access for individuals with disabilities. This ACL is part of a series on providing reasonable accommodations and is specifically tailored to the administration of CalFresh.



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June 28, 2021

ALL COUNTY LETTER NO. 21-78

TO: ALL COUNTY WELFARE DIRECTORS
ALL CALFRESH SPECIALISTS
ALL CIVIL RIGHTS COORDINATORS

SUBJECT: POLICY GUIDANCE FOR ENSURING EQUAL AND
MEANINGFUL ACCESS FOR INDIVIDUALS WITH DISABILITIES
IN CALFRESH

REFERENCE: [ALL COUNTY LETTER 19-45;](#)
[TITLE II AND TITLE III OF THE AMERICANS WITH DISABILITIES](#)
[ACT \(ADA\) OF 1990 \(42 U.S.C. 12101 ET. SEQ.\);](#)
[CDSS MANUAL OF POLICIES AND PROCEDURES \(MPP\)](#)
[DIVISION 21;](#)
[SECTION 11 OF THE FOOD AND NUTRITION ACT OF 2008;](#)
[AGE DISCRIMINATION ACT OF 1975 \(42 U.S.C. 6101 ET SEQ.\);](#)
[SECTION 504 OF THE REHABILITATION ACT OF 1973 \(29](#)
[U.S.C. § 794\);](#)
[TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 \(42 U.S.C. 2000d](#)
[ET SEQ\);](#)
[UNITED STATES DEPARTMENT OF AGRICULTURE \(USDA\)](#)
[FOOD AND NUTRITION SERVICE \(FNS\) INSTRUCTION 113-1;](#)
[USDA DEPARTMENTAL REGULATION 4210;](#)
[WELFARE AND INSTITUTIONS CODE \(WIC\) SECTION 10824.5](#)

I. **SCOPE OF THIS ACL**

This All County Letter (ACL) provides County Welfare Departments (CWDs) with policy guidance regarding the provision of reasonable accommodations for CalFresh applicants/recipients and highlights best practices to effectively implement the policy on reasonable accommodations to ensure equal and meaningful access for individuals with

disabilities. The responsibilities discussed in this ACL apply to CWDs and contractors generally related to CalFresh. This information may be helpful to other California Department of Social Service (CDSS) programs but must not be a substitute or exhaustive list of policies or practices for other CDSS programs. This ACL elaborates on the guidance offered in [ACL 19-45](#), issued on May 16, 2019, and is specifically tailored to the administration of CalFresh.

II. **NOTICE TO INDIVIDUALS WHO MAY REQUEST A REASONABLE ACCOMMODATION**

CWDs must take appropriate steps to notify all CalFresh applicants, recipients, authorized representatives, and other interested parties of the right to request reasonable accommodations and the protections against discrimination on the basis of disability. ([28 CFR § 35.106](#).)

Notification should be provided in different formats, including orally and in writing (in print and/or electronically), and must be in plain language so it is easily understood. A plain language statement might say, “Let us know if you need extra help because of a disability or medical condition. We will work with you to find a way to help.”

Notice may be given by oral group presentations, face-to-face interviews, and printed materials (e.g. posters and pamphlets). ([CDSS MPP § 21.107.25](#).) All notices of the right to request a reasonable accommodation must be provided in accessible formats. All applicants/recipients must be notified of their right to a reasonable accommodation during all interviews either at the time of initial application or recertification.

The following are specific ways a CWD must notify CalFresh applicants/recipients of their rights and the CWD’s policy on nondiscrimination:

1. **Posters:** Posters on nondiscrimination, including CDSS Publication 86 “Everyone is Different, but Equal Under the Law” (PUB 86), and any other posters on nondiscrimination provided by CDSS, must be prominently displayed in all certification and issuance offices. The PUB 86 must include the CWD’s complaint procedures and the name, telephone number, and address of the CWD representative who processes discrimination complaints. ([CDSS MPP § 21-107.211](#); [7 CFR § 272.6\(f\)](#).)
2. **Printed Notices:** The USDA nondiscrimination statement¹ must be included on all materials regarding CalFresh that are produced for public information, public

¹ USDA nondiscrimination statement: “In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, religion, political beliefs, or disability. To file a complaint of discrimination, write USDA, Director, Office of

education, or public distribution. ([FNS Instruction 113-1](#).) CWDs must make CDSS Publication 13 “Your Rights Under California Welfare Programs” (PUB 13) available in all waiting rooms and reception areas. It must also be distributed and explained to applicants at the time of initial application and to recipients at recertification. ([CDSS MPP § 21-107.221](#).)

The PUB 13 must be accessible to individuals with disabilities, which may include providing the PUB 13 in large print, Braille², accessible electronic format for use with a screen reader, or via audio recording or a qualified reader.³ The CWD must be able to provide pamphlets and their alternative forms upon request at each location open to the public.

Any application form for CalFresh must include the nondiscrimination statement and notice of an applicant’s rights. ([7 CFR § 273.2\(b\)\(1\)\(viii\)](#).) It must inform the applicant that they may request a reasonable accommodation if they have a disability and need help applying. If the applicant marks on the form that they request an accommodation or assistance in applying but does not specify the type of accommodation or assistance, the CWD must ask what accommodation or assistance is needed. Likewise, if the applicant verbally states they have a disability but does not mark having a disability or needing assistance to apply on the application form, the CWD must ask what accommodation or assistance is needed, if any.

3. **Website:** CWD public websites must contain a nondiscrimination statement and, at a minimum, have the USDA nondiscrimination statement or a link to the statement on any CalFresh program page. There must be a statement notifying applicants/recipients of their right to request a reasonable accommodation and that there are protections against discrimination based on disability.

It is recommended that the website provide a link to the PUB 13 and an explanation of how an applicant/recipient may request a reasonable accommodation with an explanation in plain language of what reasonable accommodation means.

Example language for website:

Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.” If a State authorizes additional language, it must be included in a separate statement. For more information see [FNS Instruction 113-1](#) IX. Public Notification.

² Counties can purchase Braille transcription software and equipment to create Braille transcriptions in-house or they can contract with a private vendor to produce Braille transcriptions. Contact the [Civil Rights Unit Email](#) for a list of vendors.

³ See ACL 19-45 Section V. Effective Communication for more information on auxiliary aids and services.

“Do you have any physical, mental, or emotional conditions that make it hard for you to apply for benefits or meet program requirements? We can give extra help. We call this type of help a reasonable accommodation.

The law protects people with physical, mental, and developmental disabilities as well as others with serious health problems (42 U.S.C. § 12132).

Click the PUB 13 and Pamphlet [these should be hyperlinks] on requesting an accommodation for more information.

For more information, click additional information on how to request for an accommodation [this should be a hyperlink]. [based on the [LA DPSS Your Benefits website](#)].”

CWDs must consider the needs of individuals with visual, hearing, motor, and cognitive disabilities in designing and maintaining their websites, including webpages related to CalFresh. CDSS recommends that CWDs consult their information and technology departments for website accessibility requirements and assistance.

4. **Verbal Notice:** Applicants/recipients must be advised of their rights during face-to-face or telephone interviews with eligibility workers at initial application and recertification. ([7 CFR § 273.2\(e\)](#).)

As a best practice, verbal explanation of applicant's/recipient's right to an accommodation for a disability should be done in tandem with the provision of the printed notification. Providing verbal notice is not a substitute for providing printed notice to an applicant/recipient about their rights. When providing verbal notice, the eligibility worker must do so in plain language.

Example script of verbal notification:

“The law protects people with disabilities. This includes physical, mental, and developmental disabilities as well as other serious health problems. We can help anyone apply for benefits or keep their benefits. Here is how: (provide pamphlet and verbally explain each step of the process to the applicant/recipient).”

III. **IDENTIFICATION OF DISABILITIES**

CWDs have an affirmative obligation to determine whether a CalFresh applicant/recipient needs additional assistance due to a disability and, if applicable, to provide a disability-specific accommodation.⁴ (See *Duvall v. County of Kitsap*, 260 F.3d 1124, 1139 (9th Cir. 2001).) This means that even if an applicant/recipient does not request an accommodation, for example on the application, the CWD must ask if a CalFresh applicant/recipient needs a reasonable accommodation when the need is obvious or known, such as if the individual is in a wheelchair or the applicant's/recipient's case history indicates a disability. Invisible or hidden disabilities, defined as disabilities that are not immediately apparent, can be discovered during the course of an interaction with the applicant/recipient. If such disabilities are discovered, then the CWD must assist the individual in self-identifying the disability and/or appropriate disability-specific accommodation(s). For example, if during an eligibility interview the applicant is exhibiting difficulties understanding the forms and questions then the CWD staff member must ask the applicant if they need an accommodation or extra help. (See Section IV. Offering Reasonable Accommodations below on how to offer an accommodation or extra help.)

The Statewide Automated Welfare System (SAWS) has a “prominent flag” icon that the CWD must use when an applicant/recipient has indicated the need for an accommodation due to a disability and/or the applicant/recipient has disclosed a disability. ([WIC section 10824.5](#).) This icon will show an eligibility worker or case reviewer that the applicant/recipient has a disability and their case file should be checked for any identified reasonable accommodation. The CWD should check at subsequent interactions with the applicant/recipient to see if they need any new or modified accommodation(s).

CWDs may also identify a possible disability-related need by reviewing the applicant's/recipient's CalFresh application or recertification form, transfer notes from the transferring county, or eligibility worker's notes. For example, if the notes in the case file state that an applicant/recipient needs a qualified reader due to impaired vision, the CWD must offer a qualified reader as an accommodation without the individual having to request the accommodation.

When identifying whether an applicant/recipient has a disability, it is important for the CWD to ask the applicant/recipient if they are experiencing a challenge or need assistance so the CWD may provide appropriate assistance. A CWD may ask the applicant/recipient, “If you need extra help to follow program rules or fill out paperwork due to a learning problem or health problem, we can help you.” It is not appropriate for the CWD to ask the applicant/recipient if they have a particular diagnosis or condition.

⁴ For more general information regarding “Identification of Disabilities” see [ACL 19-45](#) IV.2.

For example, if an applicant is noticeably squinting at a printed form, it would be inappropriate for an eligibility worker to ask, “Do you have low-vision?” or “Are you blind?” However, it would be permissible for an eligibility worker to say “Is the print too small for you to see? We can offer documents in larger print.”

IV. OFFERING REASONABLE ACCOMMODATIONS

CWDs must offer disability-related assistance if an applicant/recipient identifies as having a disability or if the disability-related need is obvious (e.g. readily apparent based on interacting with the applicant/recipient) or known (e.g., indicated by a “prominent flag” icon in SAWS).⁵ If the need is not already documented, it is important to confirm that an applicant/recipient is experiencing a challenge and needs an accommodation, rather than providing an accommodation without consulting the applicant/recipient.

CWDs should be thoughtful and sensitive when identifying a disability and/or offering a reasonable accommodation because it may be perceived as offensive or may be the first time the applicant/recipient finds out that they have a disability or have developed a disability. One effective approach is to offer the accommodation in the form of a request related to specific, observable behavior. For example, if an applicant/recipient has trouble speaking clearly and the eligibility worker is having difficulty understanding the applicant/recipient, the eligibility worker might say, “I am having a hard time understanding you. If I give you a pen and paper, could you write it down for me?” In this example it would be appropriate to consult with the applicant/recipient about continuing to use a pen and paper to write down their communication during future in-person interactions with CWD staff. Whether the applicant/recipient accepts or rejects the offer, the interaction and the applicant’s/recipient’s response must be documented in their case file.

Offering Assistance Outside of Reasonable Accommodations

An individual may still need assistance even if they do not identify as having a disability, they may plausibly have an undiagnosed disability, or their condition otherwise does not meet the definition of a qualifying disability.⁶ For example, if the CWD notices that an applicant/recipient is having difficulty with completing the CalFresh eligibility requirements, the CWD must still offer assistance and document it in the case file. This assistance is not considered a disability-related reasonable accommodation and is not

⁵ For more general information regarding “When to provide reasonable accommodations” see [ACL 19-45 IV.5](#).

⁶ Disability is defined as a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment. (42 U.S.C. § 12102(1).) Under California law, the definition of disability is broader and is defined as conditions that limit a major life activity. For more information see [ACL 19-45 III](#).

required under the ADA. Even so, it should be offered when deemed appropriate and documented if the assistance is accepted.

Tips on Communicating Respectfully When Offering Assistance or a Reasonable Accommodation:

1. If you offer assistance or an accommodation and the person declines, do not insist. If the person accepts, ask how you can best help the person, and listen to the person's request. Engage in an interactive process if an accommodation is not immediately agreed on.
2. If someone with a disability is accompanied by another individual, address the person with a disability directly rather than speaking through the other person.
3. Use people-first language, i.e., avoid referring to people by their disability or diagnosis. For instance, use terms like "a person with epilepsy" or "people who are blind," and not "an epileptic" or "the blind."
4. Do not make assumptions about what a person can and cannot do or what types of auxiliary aids or accommodations may meet the person's needs. A person with a physical disability is the best judge of their own capabilities.
5. When speaking to a person in a wheelchair or on crutches for more than a few minutes, sit in a chair. Place yourself at the person's eye level to facilitate conversation.
6. When offering a reasonable accommodation to someone who is deaf, deafblind, deaf disabled, hard of hearing, or late-deafened (DDBDDHLD), it is important to identify or notice their preferred method of communication, whether it is sign language, writing, lip reading, or speaking plainly, and respond to that person with their preferred method of communication. For example, a CWD staff member may notice that an applicant/recipient is hard of hearing and might say or write, "Would you like a sign language interpreter?" While speaking at a relaxed pace and pausing regularly can help, speaking unnaturally slowly can make it harder for the individual to understand you. It is inappropriate and unhelpful to speak louder or over-enunciate what you say to the applicant/recipient unless they specifically asked you to do so.⁷ As a recommendation, it is

⁷ See the [Deaf-Hearing Communication Centre's Tips for Effective Communication](#) for additional guidance on communicating with someone who is deaf or hard of hearing.

encouraged to offer information about the [Deaf Access Program \(DAP\)](#) to DDBDDHLD applicants/recipients and offer to make a referral for them to a local DAP agency.

7. When someone who is DDBDDHLD and is accompanied by another individual, do not rely on the other person to assist with communication barriers. Always offer to use a qualified sign language interpreter. Speak directly to the DDBDDHLD person by using second-person language and avoid referring to the person in third-person language. For instance, use the term “you,” not “tell him/her/them.” Make eye contact with the DDBDDHLD person you are speaking to, not the interpreter.

V. REQUESTS FOR REASONABLE ACCOMMODATIONS

CalFresh applicants/recipients may make requests for reasonable accommodations any time during their interaction with the CWD. Reasonable accommodation requests may be made in person, by telephone, or in writing by the applicant/recipient or another individual acting on their behalf (this person does not have to be an authorized representative). There are no “magic” words or phrases an applicant/recipient must use to initiate a reasonable accommodation request.

An applicant/recipient does not need to disclose a specific diagnosis or condition before requesting an accommodation. They only need to disclose a disability-related need for the accommodation. For example, an applicant with impaired vision only needs to disclose that they have a condition that makes it hard for them to read small print. They do not need to share with the eligibility worker any diagnosis of glaucoma, dyslexia, or a brain tumor. An applicant with an intellectual or developmental disability does not need to show or disclose a diagnosis of dementia or a low IQ score before being able to request for additional assistance in completing an application.

An applicant/recipient may request an accommodation that is needed due to the disability of another person with whom they are associated. For example, an applicant may request to conduct an eligibility interview over the phone because they provide primary care for a family member who cannot leave their home because of their disability.

A CWD staff member must not question the applicant’s/recipient’s need for an accommodation. A CWD staff member may, however, ask the applicant/recipient to clarify the nature of the disability-related need and related accommodation requested. When needing more information on the applicant’s/recipient’s accommodation or disability-related need, a CWD staff member might say, “I understand you are requesting an accommodation. Can you explain exactly what kind of help or assistance

you need?” or “I understand you are requesting an accommodation. Can you explain the connection between your disability and the accommodation you are requesting?” These are suggested questions to help a CWD through the process of providing reasonable accommodation. CWDs are reminded that each request for an accommodation must undergo an individualized analysis and if an accommodation is not immediately agreed upon between the CWD and the applicant/recipient, then the CWD staff must engage in an interactive process with the applicant/recipient requesting the accommodation, or the person acting on their behalf. See [ACL 19-45 \(IV\)](#).

Here are some specific questions and answers about reasonable accommodation requests:

- **Can we require applicants/recipients to complete a reasonable accommodation request form?** CWDs may provide a reasonable accommodation request form to CalFresh applicants/recipients. However, CWDs must not require CalFresh applicants/recipients to use or sign the form in order to request an accommodation.
- **Can third-party individuals make a reasonable accommodation request for the applicant/recipient?** A third-party individual, such as a friend, social worker, representative, or family member, may make a reasonable accommodation request on behalf of the CalFresh applicant/recipient. The person requesting the accommodation on behalf of an individual does not need to be an authorized representative.
- **When can a request be made?** Requests for reasonable accommodations may be made at any time during the application process, at any time during the certification period, after a denial or acceptance of benefits, at recertification, at termination of benefits, or when addressing a fraud referral. Individuals do not forfeit the right to a reasonable accommodation because they did not fill out a specific reasonable accommodation form or request it initially. Even if the applicant/recipient stated that they do not need a reasonable accommodation on the application or an appeal form, they may request it later without prejudice.
- **How many reasonable accommodation requests are allowed?** There is no limit to the number of requests a person may make for a reasonable accommodation. Each request must be afforded individual analysis under the law.
- **Can a reasonable accommodation be made for something that is a program rule?** If a person cannot comply with a regular program requirement due to a disability, a reasonable accommodation may be considered and granted. For example, if program rules normally require a sworn statement signed by the individual, a recipient who cannot physically hold a pen might instead use a name stamp.

- **Does a reasonable accommodation need to be provided in every interaction?** If the person has requested a reasonable accommodation for a disability-related need, then the accommodation must be provided in all interactions where that need would arise. The CWD must not require the person to re-request the accommodation in every interaction. For example, if the person's disability keeps them from being able to read and understand written notices, and an accommodation is granted to read notices aloud to them, this accommodation should be provided with all notices.

VI. **DOCUMENTING DISCLOSURES OF DISABILITY AND REASONABLE ACCOMMODATION REQUESTS AND DENIALS**

As discussed in [ACL 19-45](#),⁸ the CWD must document all requests for reasonable accommodations and subsequent actions taken by the CWD in the applicant's/recipient's case file. Documentation must include the following information:

- The fact that an applicant/recipient has a disability and/or requested an accommodation. (The disability itself may be documented if disclosed by the applicant/recipient, but the applicant/recipient is not required to provide a specific diagnosis);
- The accommodation(s) requested by the applicant/recipient, if applicable; and
- The accommodation(s) provided to the applicant/recipient.

Whenever a CWD learns that an applicant/recipient has a disability, the CWD must ensure that the existence of a disability is documented in the case file. ([CDSS MPP section 21-116.3.](#)) If the applicant/recipient has disclosed a disability or indicated a need for an accommodation due to a disability, then the CWD must use the SAWS "prominent flag" icon to ensure continuity of service. This section of Division 21 also specifies that the CWD document in writing an applicant's/recipient's requests for auxiliary aids and services. This documentation must be sufficient in detail so that a reviewer will be able to determine compliance with requirements of Division 21. ([CDSS MPP § 21-116.1.](#))

If an interactive process⁹ was initiated, the interactive process must be documented in the applicant's/recipient's case file. This must include the applicant's/recipient's requested accommodation and the discussion of alternative accommodations.

The CWD must document a reasonable accommodation every time it is provided to the applicant/recipient. For example, if the reasonable accommodation is to provide written documents in large print there must be proof indicating that all written documents were given in large print. This is usually accomplished by noting in the case file that a

⁸ See [ACL 19-45](#) IV.4. regarding documenting reasonable accommodations.

⁹ See [ACL 19-45](#) IV.6. for more information on the interactive process.

particular document was provided in large print and/or attaching a copy of the large print document to the case file. This will enable CWDs to demonstrate consistent compliance with civil rights requirements, while facilitating continuity of service to individuals with disability-related needs for accommodations. If an applicant/recipient who receives an accommodation later requests for an additional accommodation or modification to the accommodation provided, the CWD must document all added accommodations or modifications to any accommodations in the applicant's/recipient's case file.

If the CWD denies a reasonable accommodation, it must document the reasons for the denial, any other accommodations offered and/or provided, and proof that the applicant/recipient was informed in writing that their reasonable accommodation request was denied.¹⁰

VII. TRAINING ON ENSURING EQUAL AND MEANINGFUL ACCESS FOR INDIVIDUALS WITH DISABILITIES

CWDs are required to provide annual civil rights trainings to their respective employees, managers and supervisors, civil rights practitioners, employees who deliver conducted programs, and employees who administer assisted programs.
([USDA Departmental Regulation 4120-0100\(6\)\(b\)\(1\)\(a\).](#))

CWDs are also required to train public contact staff (such as eligibility workers), program managers, and supervisors upon hire and, at a minimum, annually thereafter, on providing reasonable accommodations to people with disabilities. ([ACL 19-45 \(I.\)](#)) The CWD training must include the information presented in this ACL and [ACL 19-45](#) to the extent that it is relevant to the program. Specifically, CWDs must train eligibility workers, program managers, and supervisors on how to notify CalFresh applicants/recipients of their right to a reasonable accommodation. CWD staff members must know how and where to obtain printed notices in accessible formats. They must be trained in how to identify if a CalFresh applicant/recipient has a disability and, if applicable, to offer a disability-specific accommodation. They must know how to document when a CalFresh applicant/recipient requests a reasonable accommodation and whether a request is approved or denied. It is recommended that all CWD staff members practice giving verbal notice.

VIII. SCENARIOS FOR PROVIDING REASONABLE ACCOMMODATIONS

1. An 85-year-old woman who appears to have a visual impairment and is walking with the help of a walker comes into a CWD office to apply for benefits. The CWD staff must talk with her about what assistance she needs to facilitate the application process because she has an obvious disability. Examples of

¹⁰ See [ACL 19-45](#) IV.7. for further information and grounds for denying a reasonable accommodation.

reasonable accommodations that staff may provide include assisting the woman immediately, so she does not have to wait in line, and helping her complete her forms.¹¹ If the woman accepts one or both of the accommodations, then the CWD staff must document the accepted accommodation in the woman's case file and trigger the case flag.

2. A CalFresh recipient comes into the office and has a question about their case. The eligibility worker on duty looks up their information in SAWS and notices that the recipient has partial hearing loss. Their case in SAWS does not have a prominent flag icon and there is a note stating on a prior occasion the county informed the recipient of their right to a reasonable accommodation and was offered an assistive hearing device, but the recipient declined receiving one. The initial interaction with the recipient does not indicate that they have trouble hearing the eligibility worker. Even in such circumstances, the eligibility worker must review the right to a reasonable accommodation with the recipient. The eligibility worker must then clearly document in the case narration whether the recipient accepted or declined the accommodation.

If you have any questions or need additional guidance regarding the information in this letter, contact the CalFresh and Nutrition Branch at (916) 651-8047 or at CalFreshPolicy@dss.ca.gov.

Sincerely,

Original Document Signed By

Marcela Ruiz, Director
Office of Equity
California Department of Social Services

Alexis Fernandez, Branch Chief
CalFresh and Nutrition Branch
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¹¹ Provided by the Santa Clara County Civil Rights Manual.